

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

GERALD JOHN LADUE, JR.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:21-cv-900
	)	
FORSYTH MEMORIAL HOSPITAL,	)	
FORSYTH HOSPITAL DOCTOR, and	)	
STOKES COUNTY JAIL MEDICAL	)	
DEPARTMENT,	)	
	)	
Defendants.	)	

**ORDER**

On November 1, 2022, the United States Magistrate Judge's Order, Memorandum Opinion and Recommendation ("Recommendation") was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 28, 29.) No objections were filed within the time limits prescribed by Section 636.

In addition to recommending dismissal of any claims as to Forsyth Memorial Hospital, (Doc. 28 at 6), the Magistrate Judge granted Plaintiff's motion to amend and directed Plaintiff to file an amended complaint on or before November 22, 2022, (id.). Plaintiff has failed to file an amended complaint as directed. Plaintiff, by failing to file the amended complaint as directed is unreasonably delaying these proceedings. This court will

therefore order Plaintiff to file an amended complaint on or before January 10, 2023. If Plaintiff fails to file an amended complaint as ordered, this court will strike the order allowing Plaintiff to amend and the case will proceed on the original complaint and the Answer to Plaintiff's Complaint. (Doc. 25).

Southern Health Partner's answer, (Doc. 25), asserts as a "First Defense" a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) and a "Second Defense" of a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(4) and (5). (Id. at 1.) However, those motions are not accompanied by a brief as required by LR 7.3(k) and will therefore be summarily denied. (See Fed. R. Civ. P. 12(b) ("A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed.")).

Therefore, the court need not make a de novo review and the Magistrate Judge's Recommendation is hereby adopted.

**IT IS THEREFORE ORDERED** that Defendant Forsyth Memorial Hospital's Motion to Dismiss, (Doc. 17), is **GRANTED** and that all claims against Forsyth Memorial Hospital be, and are hereby **DISMISSED**.

**IT IS FURTHER ORDERED** that Defendant Southern Health Partners' motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(4), (5), and (6), (Doc. 25 at 1) are **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff file an amended complaint that asserts all claims and allegations upon which he wishes to proceed against Defendant Doctor and Defendant Stokes County Jail Medical Department on or before January 10, 2023.

**PLAINTIFF IS HEREBY WARNED THAT FAILING TO COMPLY WITH THIS ORDER WILL RESULT IN THIS COURT STRIKING THE ORDER ALLOWING PLAINTIFF TO AMEND THE COMPLAINT AND THE CASE WILL PROCEED ON THE ORIGINAL COMPLAINT AND THE ANSWER FILED BY SOUTHERN HEALTH PARTNERS.**

This the 22nd day of December, 2022.

  
United States District Judge